



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
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Secretary of Natural Resources

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Milestone Metals, Inc.
FOR
Milestone Metals
VPDES Permit No. VAR05
Storm Water Registration No. VAR052188**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Milestone Metals, Inc., regarding the Milestone Metals facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means the discharge of a pollutant.
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Facility" or "Site" means the Milestone Metals facility, located at 8522 Lee Highway, Fairfax, Virginia, from which discharges of stormwater associated with industrial activity occur.
9. "Milestone Metals, Inc." means Milestone Metals, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Milestone Metals, Inc. is a "person" within the meaning of Va. Code § 62.1-44.3.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
13. "Permit" means VPDES General Permit No. VAR05 which was issued under the State Water Control Law and the Regulation on July 1, 2014 and which expires on June 30, 2019. Milestone Metals, Inc. applied for registration under the Permit and was issued Registration No. VAR052188 on August 27, 2014.
14. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.

15. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
16. "Registration statement" means a registration statement for coverage under a storm water general permit.
17. "Regulation" means The General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity," 9 VAC 25-151-10, *et seq.*
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
19. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
20. "SWP3" or "SWPPP" means Stormwater Pollution Prevention Plan.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. Milestone Metals, Inc. owns and operates the Facility located at 8522 Lee Highway, Fairfax, Virginia, which discharges stormwater associated with industrial activity.
2. The Permit allows Milestone Metals, Inc. to discharge stormwater associated with industrial activity from the Facility to an unnamed tributary (UT) of Long Branch Stream, in strict compliance with the terms and conditions of the Permit.

3. Long Branch is located in the Potomac River Basin. Long Branch has neither been assessed nor monitored. Accotink Creek is located approximately 1.7 miles downstream from the Facility. Accotink Creek is listed in DEQ's 305(b) report as: impaired for aquatic life use 1.7 miles from the Facility; and impaired for recreation, aquatic life use, and wildlife use 2.6 miles from the facility.
4. Part I.A.1.a of the Permit requires Milestone Metals, Inc. to perform and document quarterly visual examinations of the quality of the stormwater discharging from the Facility's outfalls.
5. Part I.A.1.b Table 70-1, Part I.A.2.d.(2), and Part I.A.5.a of the Permit requires Milestone Metals, Inc. to conduct benchmark monitoring of stormwater discharges from the Facility's storm water outfalls for the presence of pollutants of concern once during each benchmark monitoring period and record benchmark monitoring results on a DMR, due by the 10th day of the month following the monitored period.
6. Part I.A.6 of the Permit requires Milestone Metals, Inc. to document, in their SWPPP, corrective actions in response to benchmark DMR exceedances.
7. Part I.B.7.b.(1) of the Permit requires Milestone Metals to monitor the Facility's discharges for total suspended solids, total nitrogen, and total phosphorus to characterize the contributions from the facility during the first four monitoring periods of the Permit. These samples are required to be collected, recorded, and analyzed in accordance with Part I.A.2 to determine if additional action is necessary, as well as reported in accordance with Part I.A.5 & Part II.C., and retained in accordance with Part II.B.
8. Part III.B.4.b.(1) & (2) of the Permit requires Milestone Metals, Inc. to ensure and maintain good housekeeping, and eliminate and minimize exposure of industrial areas and materials to stormwater.
9. Part III.B.4.b.(6) of the Permit requires Milestone Metals, Inc. to implement and document stormwater pollution prevention training for Facility employees.
10. Part III.B.5 of the Permit requires Milestone Metals, Inc. to perform and document routine facility inspections.
11. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
12. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.

13. During a file review, DEQ staff observed that Milestone Metals, Inc. submitted a late DMR for the July 1 – December 31, 2016 monitoring period. The DMR was due January 10, 2017 and was received by DEQ on February 1, 2017.
14. During a DEQ Facility inspection on July 13, 2018 and subsequent file review, DEQ staff documented the following compliance deficiencies with respect to the requirements of the Permit:
 - a. Benchmark monitoring DMRs for the Facility's outfalls were received on August 28, 2018 for the January 1 – June 30, 2018 monitoring period, as required by Part I.A.1.b, Table 70-1; Part I.A.2.d.(2); & Part I.A.5.a) of the Permit.
 - b. No records of corrective actions were documented in the SWPPP for metal and suspended solids exceedances on the DMRs for the 2nd semiannual period of 2016, and both semiannual periods of 2017, as required by Part I.A.6 of the Permit.
 - c. Dirt was covering ground surfaces at the Facility and all three outfalls were clogged with dirt and debris, in violation of requirements listed in Part III.B.4.b.(1) of the Permit. In addition, metal scraps were strewn throughout the property unprotected from stormwater, and car batteries were observed stacked outside with no protection from stormwater, in violation of requirements listed in Part III.B.4.b.(2) of the Permit.
 - d. Quarterly visual monitoring was not documented for all Facility outfalls for all four quarters of 2017, and the first two quarters of 2018 as required in Part I.A.1.a of the Permit.
 - e. Quarterly routine facility inspections were not documented at the Facility for 2017 and 2018, as required in Part III.B.5 of the Permit.
 - f. No record was available to demonstrate the Facility's plan for annual training of key personnel, dates of training, names of employees trained, or curriculum of the training, as required by Part III.B.4.b.(6) of the Permit. Only the Facility manager was listed as having been trained.
 - g. The Facility only performed Chesapeake Bay TMDL monitoring for two monitoring periods, and only for Outfall 001. The Facility did not provide calculations and a Chesapeake Bay-TMDL action plan analysis/determination in their SWPPP as required in Part I.B.7.b of the Permit.
15. Photo evidence provided to DEQ by Fairfax County stormwater inspectors in May of 2018 documented an unauthorized discharge of water pumped from inside the fenced area of the Facility onto the road/curb outside. DEQ staff questioned Facility management during the July 13, 2018 inspection, and Facility management admitted to the unauthorized discharge of industrial stormwater off of the property.
16. On October 17, 2018, Department staff met with a Milestone Metals, Inc. Facility representative, and environmental contractor James Environmental Management (JEM), to discuss the violations and the Facility's written response to the inspection report.

17. On February 5, 2019, Department staff again inspected the Milestone Metals, Inc. Facility, and noted repeated housekeeping deficiencies:
 - a. Dirt and metal debris formed a layer across Facility ground surfaces, and all three outfall inlet grates were clogged with dirt/debris.
18. During a file review, Department staff observed that Milestone Metals, Inc. documented a preceding storm event interval of less than 72 hours on their Outfall 001 and Outfall 004 Benchmark DMRs for the July 1 – December 31, 2018, monitoring period. Documentation demonstrating that a less than 72 hour interval was representative of the local storm events for this period was not received by DEQ.
19. NRO issued Notices of Violation for the violations noted above as follows: NOV No. W2017-04-N-0010, issued April 17, 2017; NOV No. W2018-09-N-0005, issued September 11, 2018; and NOV No. W2019-02-N-0017, issued February 13, 2018.
20. Milestone Metals, Inc. responded to the Notices of Violation by submitting a plan and schedule of corrective action to address the violations. The plan and schedule are incorporated in Appendix A of the Order.
21. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
22. The Department has issued coverage under no permits or certificates to Milestone Metals, Inc. other than under VPDES Permit No. VAR05.
23. The unnamed tributary of Long Branch Stream is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
24. Based on the results of the internal file review, the July 13, 2018, inspection, the subsequent October 17, 2018, meeting, and the February 5, 2019, inspection the Board concludes that Milestone Metals, Inc. has violated conditions Part I.A.1.b, Table 70-1; Part I.A.2.b; Part I.A.2.d.(2); Part I. A.5.a; Part I.A.6; Part III.B.4.b.(1); Part III.B.4.b.(2); Part I.A.1.a; Part III.B.5; Part III.B.4.b.(6); and Part I.B.7.b of the Permit, 9VAC25-31-50 and Va. Code § 62.1-44.5 as noted in paragraphs C(1) – C(15) of this Order.
25. Milestone Metals, Inc. has submitted written responses and supplemental evidence to DEQ confirming Milestone Metals, Inc.’s return to compliance for the violations described in C(14.b), (14.f) and (14.g). The submitted CB-TMDL Action Plan was approved by DEQ on November 26, 2018.
26. In order for Milestone Metals, Inc. to complete its return to compliance, DEQ staff and Milestone Metals, Inc. have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.15, the Board orders Milestone Metals, Inc., and Milestone Metals, Inc. agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$20,625** in settlement of the violations cited in this Order. This civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
30 days after Order execution	\$1,718.75 or balance
60 days after Order execution	\$1,718.75 or balance
90 days after Order execution	\$1,718.75 or balance
120 days after Order execution	\$1,718.75 or balance
150 days after Order execution	\$1,718.75 or balance
180 days after Order execution	\$1,718.75 or balance
210 days after Order execution	\$1,718.75 or balance
240 days after Order execution	\$1,718.75 or balance
270 days after Order execution	\$1,718.75 or balance
300 days after Order execution	\$1,718.75 or balance
330 days after Order execution	\$1,718.75 or balance
360 days after Order execution	\$1,718.75 or balance

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Milestone Metals, Inc. Within 15 days of receipt of such letter, Milestone Metals, Inc. shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Milestone Metals, Inc. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the

Department of Law, Milestone Metals, Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Milestone Metals, Inc. for good cause shown by Milestone Metals, Inc., or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. W2017-04-N-0010, issued April 17, 2017; and NOV No. W2018-09-N-0005, issued September 11, 2018. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Milestone Metals, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Milestone Metals, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Milestone Metals, Inc. declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Milestone Metals, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Milestone Metals, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Milestone Metals, Inc. shall demonstrate

that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Milestone Metals, Inc. shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

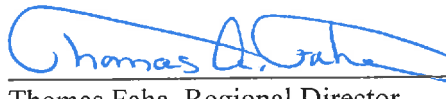
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Milestone Metals, Inc.. Nevertheless, Milestone Metals, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Milestone Metals, Inc. has completed all of the requirements of the Order;
 - b. Milestone Metals, Inc. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Milestone Metals, Inc..

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Milestone Metals, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Milestone Metals, Inc. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Milestone Metals, Inc. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Milestone Metals, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Milestone Metals, Inc.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Milestone Metals, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 17th day of May, 2019.


Thomas Faha, Regional Director
Department of Environmental Quality

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Consent Order

Milestone Metals, Inc.; VPDES Permit No. VAR05, Registration Number VAR052188

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Milestone Metals, Inc. voluntarily agrees to the issuance of this Order.

Date: March 20, 2019 By: G. Ramprasad President
(Person) (Title)
Milestone Metals, Inc.

Commonwealth of Virginia

City/County of Fairfax

The foregoing document was signed and acknowledged before me this 20th day of

March, 2019, by Ramprasad Gurunathan who is
President

of Milestone Metals, Inc., on behalf of the corporation.

[Signature]
Notary Public

7227331

Registration No.

My commission expires: June 30 - 2022

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. **Milestone Metals, Inc. shall complete the following:**

- a. Good-housekeeping practices, including the removal of excess dirt layers across all facility grounds, proper storage of batteries and metal scraps, and the physical clearance of outfalls, shall be implemented within **60 days** of the execution of this Order, and evidence in the form of photographs and work logs shall be documented and presented to DEQ upon request.
- b. Submit a copy of the Facility's visual examination report, conducted as part of the Facility's quarterly visual monitoring requirements, for the two quarters following the execution of this Order. These reports shall be received no later than the 10th day of the month following the quarter, e.g., a visual examination report for the January – March monitoring period would be due no later than April 10th.
- c. Submit a copy of the quarterly routine facility inspection report for the two quarters following execution of this Order. These shall be received no later than the 10th day of the month following the examined quarter, e.g., a routine facility inspection report for the January – March monitoring period would be due no later than April 10th.
- d. Submit to DEQ, within **30 days** of the execution of this Order, a plan which explains how Milestone Metals, Inc. intends to prevent or report unauthorized discharges of stormwater from the Facility's property in the future.

2. **DEQ Contact**

Unless otherwise specified in this Order, Milestone Metals, Inc. shall submit all requirements of Appendix A of this Order to:

**Virginia Department of Environmental Quality
Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193**